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JUN 28 2002

REEXAM UNIT

In re Application of : DECISION ON PETITION
Jean-Guy Chouinard et al. : TO ACCEPT PAPERS AND
Appl. No. 10/079,034 : ACCORD FILING DATE
Filed: February 19, 2002 :
Atty. Dock. No. 14079-1US-R :

This is a decision on the petition filed May 6, 2002, requesting (1) that the application papers deposited February 19, 2002, be accepted as a complete application and (2) that the application be accorded a filing date of February 19, 2002.

The petition is before the Office of Patent Legal Administration for decision.

The petition requesting acceptance of the application papers deposited February 19, 2002, as a complete application is dismissed.

The petition requesting that the application be accorded a filing date of February 19, 2002, is granted.

REVIEW OF FACTS

On February 19, 2002, the application was deposited as an application for reissue of U.S. Patent No. 6,028,414.

On April 17, 2002, the Office of Initial Patent Examination (OIPE) mailed a Notice of Incomplete Reissue Application requiring, *inter alia*, a specification, claim(s) and a drawing, and stating that the filing date (for the application) would be the receipt date of the required items.

As a response to the Notice of Incomplete Reissue Application, the present petition was filed on May 6, 2002. Accompanying the petition is a copy of the entire submission that was made at the time of depositing of the application.

DECISION ON PETITION TO ACCEPT PAPERS AS COMPLETE APPLICATION

Petitioner urges that all of the items identified by OIPE as missing were part of the original application submission by way of the ribbon copy of the original patent. It is true that the items identified are contained in the ribbon copy of the patent. The specification, including the claims, and the drawings necessary for this application were not, however, submitted on February 19, 2002, in the format required by 37 CFR 1.173. The ribbon copy cannot be used as the specification, claims and drawings for the application record because it does not comply with the format requirements of 37 CFR 1.173. Further, in the event a reissue patent is not granted, return of the ribbon copy can be requested; there would then be no specification and drawings in the resulting abandoned application. Accordingly, the Office will not accept the ribbon copy of the original patent as satisfying the requirements of 37 CFR 1.173.

DECISION ON PETITION TO ACCORD FILING DATE

A filing date of February 19, 2002, is requested based on the deposit of application papers made on that date. As this is an application for reissue, the content of the specification, claims and drawings and its timeliness for filing are not in question and were not in question on the date of deposit. This is so, even though the deposited application papers were not submitted in the format required by the current regulations. Accordingly, this application is accorded the filing date of February 19, 2002.

REQUIREMENT FOR COMPLETION OF APPLICATION

Although the petition is being accepted as a timely response to the outstanding Notice of Incomplete Application, it is still required that the present reissue application be placed in compliance with 37 CFR 1.173(a). To do so, applicant may provide a copy of the paper print-out of the patent in double column format, each page of the patent being on only one side of a sheet of paper to thereby provide the specification and claims. The copy of the drawings of the paper print-out of the patent may be submitted to serve as the required set of application drawings.

Petitioner is given ONE MONTH from the date of this decision to comply with this outstanding requirement.

CONCLUSION

1. The petition requesting acceptance of the application papers deposited February 19, 2002, as a complete application is dismissed.
2. The petition to accord the present application a filing date of February 19, 2002, is granted.
3. PETITIONER IS GIVEN ONE MONTH FROM THE DATE OF THIS DECISION TO SUBMIT A SPECIFICATION, CLAIMS AND DRAWINGS, PURSUANT TO § 1.173(a).
4. Upon receipt of the appropriate papers, the application will be forwarded to OIPE for further processing with a filing date of February 19, 2002.
5. Telephone inquiries related to this decision only should be directed to Joseph Narcavage, Senior Special Projects Examiner, at (703) 305-1795.
6. Inquiries regarding petition status or general petition information are handled by the Office of Petitions staff at (703) 305-9282.



Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

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